

comment, it must still be part of the information package to be considered by the decisionmaker for the proposed action. The content of a classified EA/EIS (or the classified portion of a public EA/EIS) will therefore meet the same content requirements applicable to a published unclassified EA/EIS.

§ 775.6 Planning considerations.

(a) When integrating the NEPA process into early stages of proposed actions, action proponents will determine as early as possible the appropriate level of documentation required under NEPA, i.e., is the action a major federal action significantly affecting the human environment requiring an environmental impact statement (EIS), is the action one for which the impacts are not known or which may not be significant and, therefore, an environmental assessment (EA), is appropriate, or is the action one that has no potential for significant impacts and can be categorically excluded from further NEPA documentation. In addition, CEQ regulations (40 CFR 1501.5 and 1501.6) require early identification of lead and cooperative agencies for preparation of an EIS for which more than one agency is involved or has special expertise in environmental issues to be addressed in the EIS.

(b) The command responsible for preparation of the appropriate documentation may prepare an EA on any action at any time in order to assist in planning and decisionmaking, including the decision whether or not to prepare an EIS. If a determination is made based on information presented in an environmental assessment that an EIS is not required, a Finding of No Significant Impact (FONSI) will be prepared and made available to the public in accordance with CEQ regulations (40 CFR 1506.6).

(c) CEQ regulations (40 CFR 1508.18(a)) define major federal actions subject to evaluation under NEPA to include, among other things, "new and continuing activities". The term *new activities* is intended to encompass future actions, i.e., those which are not ongoing at the time of the proposal. The term *continuing activities* which may necessitate the preparation of a NEPA document will be applied by the

Department of Navy to include activities which are presently being carried out in fulfillment of the Navy mission and function, including existing training functions, where:

(1) The currently occurring environmental effects of which have not been previously evaluated in a NEPA document, and there is a discovery that substantial environmental degradation is occurring, or is likely to occur, as a result of ongoing operations (e.g., a discovery that significant beach erosion is occurring as a result of continuing amphibious exercises, new designation of wetland habitat, or discovery of an endangered species residing in the area of the activity), or

(2) There is a discovery that the environmental effects of an ongoing activity are significantly and qualitatively different or more severe than predicted in a NEPA document prepared in connection with the commencement of the activity.

A substantial change in a continuing activity (such as a substantial change in operational tempo, area of use, or in methodology/equipment) which has the potential for significant environmental impacts should be considered a proposal for a new action and be documented accordingly. Preparation of a NEPA document is not a necessary prerequisite, nor a substitute, for compliance with other environmental laws.

(d) Where emergency circumstances require immediate action, for the protection of lives and for public health and safety, which could result in significant harm to the environment, the activity Commanding Officer or his designee shall report the emergency action to CNO (OP-44E)/CMC (LFL) who will facilitate the appropriate consultation with CEQ as soon as practicable.

(e) CEQ regulations provide for the establishment of categorical exclusions (40 CFR 1508.4) for those actions which, after consideration by the Department of the Navy, have been found not to have a significant effect on the human environment, individually or cumulatively, under normal circumstances, and for which, therefore, neither an EA nor an EIS is required. Categorical exclusions are applicable to those kinds

of Navy actions which do not significantly affect the quality of the human environment, which do not result in any significant change from existing conditions at the site of the proposed action, and whose effect is primarily economic or social. "Normal circumstances" means that the proposal, when analyzed with respect to context and intensity, can reasonably be expected to not cause significant impacts. Even though a proposal generally fits the description set out below for categorical exclusions, the categorical exclusion should not be used if the proposed action:

(1) Would affect public health or safety;

(2) Involves a site that includes wetlands, endangered or threatened species, historical or archaeological resources, or hazardous wastes;

(3) Involves effects on the human environment that are highly uncertain, involve unique or unknown risks, or which are scientifically controversial;

(4) Establishes precedents or makes decisions in principle for future actions with significant effects, or;

(5) Threatens a violation of federal, state or local law or requirements imposed for protection of the environment.

(f) A decision to forego preparation of an EA or EIS on the basis of one or more categorical exclusions shall be documented, including the exclusions found applicable, the facts supporting their use and specific consideration of whether the exceptions to the use of categorical exclusions, set out above, were applicable. The following are actions which, under normal conditions, are categorically excluded from further documentation requirements under NEPA:

(1) Routine personnel, fiscal, and administrative activities involving military and civilian personnel, e.g., recruiting, processing, paying, and records keeping.

(2) Reductions in force wherein impacts are limited to socioeconomic factors.

(3) Routine movement of mobile assets, such as ships and aircraft, in home port reassignments (when no new support facilities are required) to per-

form as operational groups, and/or repair and overhaul.

(4) Relocation of personnel into existing federally-owned or commercially-leased space which does not involve a substantial change in the supporting infrastructure (e.g., an increase in vehicular traffic beyond the capacity of the supporting road network to accommodate such an increase).

(5) Studies, data and information-gathering that involve no physical change to the environment, e.g., topographic surveys, bird counts, wetland mapping, forest inventories, and timber cruising.

(6) Routine repair and maintenance of facilities and equipment in order to maintain existing operations and activities, including maintenance of improved and semi-improved grounds such as landscaping, lawn care, and minor erosion control measures.

(7) Alteration of and additions to existing structures to conform or provide conforming use specifically required by new or existing applicable legislation or regulations, e.g., hush houses for aircraft engines and scrubbers for air emissions.

(8) Routine actions normally conducted to operate, protect, and maintain Navy-owned and/or controlled properties, e.g., maintaining law and order, physical plant protection by military police and security personnel, and localized pest management activities on improved and semi-improved lands conducted in accordance with applicable federal and state directives.

(9) New construction that is consistent with existing land use and, when completed, the use or operation of which complies with existing regulatory requirements and constraints, e.g., a building on a parking lot with associated discharges/runoff within existing handling capacities, a bus stop along a roadway, and a foundation pad for portable buildings within a building complex.

(10) Procurement activities that provide goods and support for routine operations.

(11) Day-to-day manpower resource management and research activities that are in accordance with approved plans and inter-agency agreements and which are designed to improve and/or